

## **REMARKS**

The Office Action of April 23, 2003 has been reviewed and the comments therein were carefully considered. Claims 1-39 are pending in the above-identified application and stand rejected. The Office Action of April 23, 2003 has been carefully reviewed and these remarks are responsive thereto. By this response, Applicants have amended claims 9, 19, and 29. No new matter has been introduced into the application. Reconsideration and allowance of the instant application are respectfully requested.

### **Rejections under 35 USC § 103**

Claims 1-8, 10-18, 20-28 and 30-37 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mann (United States Patent Number 6,052,624) in view of Boveja (United States Patent Number 6,269,270). The Applicants respectfully traverse the rejection in view of the following remarks.

Mann discloses a method of programming electrode arrays having a multiplicity of electrodes using a directional input device such as a joystick. (Col. 4, Lines 35-47). The directional input device enables the user to adjust electrode configurations in order to “steer” the stimulation current such that the patient immediately feels the effect of electrode configuration changes. (Col. 4, Lines 47-51). The method allows for the programming of a tissue stimulator so that a desired pattern of tissue stimulation currents is applied to a selected group of electrodes that form part of the tissue stimulator. (Col. 8, Lines 17-23).

Boveja discloses a method to treat Dementia and Alzheimer’s disease via stimulation using an implantable lead and an external simulator located outside a patient’s body. (Col. 6, Lines 13-16). The external stimulator emits electrical pulses to stimulate a cranial nerve

according to a predetermined program selected from at least two predetermined programs.  
(Abstract).

The Office Action states “it would have been obvious to modify the programming system of Mann with the pre-packaged programs of Boveja.” (Office Action Page 9, Lines 16-17). According to the Office Action, the “motivation for doing so would be to provide predetermined levels of therapy aggressiveness with personalized parameter settings for a patient (Mann, column 11, lines 56-61).” (Office Action, Page 9, Lines 17-19). The Applicants respectfully disagree, as there is no suggestion or motivation, either in Mann, Boveja, or in the knowledge generally available to one of ordinary skill in the art, to modify these references or to combine these reference teachings. The Office Action cites Mann at Column 11, Lines 56-61 as supporting the motivation for modifying Mann with the pre-packaged programs of Boveja. According to Mann at Column 11, Lines 56-61:

A simulated display 32 of the electrode array pattern 23 thus appears on the display screen 16 just as though the programmer could view inside the patient to see the electrode placement on or near the spinal column. For the representative electrode array 23 shown in FIG. 4, two columns of electrodes 24 are used, each having six electrodes.

Applicants respectfully disagree with the Office Action that the above quoted section of Mann (Column 11, Lines 56-61) provides motivation to modify the programming system of Mann with the pre-packaged programs of Boveja. The particular quoted section of Mann (Column 11, Lines 56-61) discusses displaying an electrode array pattern on a screen to enable a programmer to view the electrode placement on or near the spinal column of a patient. The quoted section of Mann (Column 11, Lines 56-61) does not provide any motivation such as the Office Action’s stated motivation “to provide predetermined levels of therapy aggressiveness

with personalized parameter settings for a patient.” Applicants submit that such motivation is not found in any section of Mann or Boveja, and is not found in the knowledge generally available to one of ordinary skill in the art.

Furthermore, even if proper motivation could be found to combine the teaching of Mann and Boveja, it would still not disclose, teach, or suggest the claimed features of the current invention. For example, independent claim 1 discloses the element of “creating at least one personalized therapy program from the accessed preset clinician therapy program.” In contrast to claim 1, Mann discloses altering a basic operating program by changing various parameters. Mann does not disclose “creating at least one personalized therapy program from the accessed preset clinician therapy program.” In fact, the Office Action states and the Applicants agree, “Mann does not disclose expressly accessing more than one preset clinician therapy program.” (Office Action, Page 9, Lines 12-13). In addition, the combination of Mann and Boveja does not disclose, teach, or suggest, “creating at least one personalized therapy program from the accessed preset clinician therapy program.” For at least these reasons, it is respectfully submitted that claim 1 is patentably distinct over Mann and Boveja. Similarly, with regard to independent claims 10, 20, and 30 the proposed combination of Mann and Boveja fails to disclose, teach, or suggest the ability to “create at least one personalized therapy program from the at least two preset clinician therapy programs.” Therefore, for at least these reasons, it is respectfully submitted that claims 10, 20, and 30 are patentably distinct over Mann and Boveja.

Applicants respectfully request reconsideration of this ground of rejection for independent claims 1, 10, 20, 30, and 31. Additionally, dependent claims 2-8, 11-18, 21-28, and 32-37 which ultimately depend from one of independent claims 1, 10, 20, 30 and 31 are allowable for at least the same reason as the independent claims.

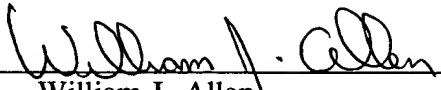
Claims 9, 19, and 29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mann (United States Patent Number 6,052,624) in view of Boveja (United States Patent Number 6,269,270) and further in view of Barreras, Sr. et al (United States Patent Number 5,941,906). Claims 9, 19, and 29 have been amended in the current application and are believed to be in condition for allowance for at least the same reasons as discussed above with respect to independent claims 1, 10, 20, and 30.

Claims 38 and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mann (United States Patent Number 6,052,624) in view of Boveja (United States Patent Number 6,269,270) and further in view of Wernicke et al (United States Patent Number 5,231,988). Based on the above remarks, Applicants respectfully submit that claims 38 and 39, which depend from claim 31, are allowable for at least the same reason as independent claim 31.

In view of the above discussion, Applicant respectfully submits that each of the claims 1-39 now pending in the application contain patentably distinct subject matter over all of the references of record and are in condition for allowance. Reconsideration and allowance of claims 1-39 is respectfully requested. Should the Examiner believe that a conversation with Applicant's representative would be useful in the prosecution of this case, the Examiner is invited and encouraged to call Applicant's representative.

Respectfully submitted,

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